



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.

I.07-01-022

Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.

A.06-09-006

Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.

A.06-10-026

Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.

A.06-11-009

Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.

A.06-11-010

Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.

A.07-03-019

**REPLY BRIEF OF THE UTILITY REFORM NETWORK, NATIONAL
CONSUMER LAW CENTER, LATINO ISSUES FORUM AND DISABILITY
RIGHTS ADVOCATES**

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I. INTRODUCTION

The Utility Reform Network, the National Consumer Law Center, the Disability Rights Advocates and the Latino Issues Forum (herein referred to collectively as “Joint Consumers”) file this Reply Brief pursuant to Rules of Practice and Procedure Rule 13.11 and the Administrative Law Judge’s electronic ruling dated August 3, 2007.

As discussed in our Opening Brief, Joint Consumers believe that the Commission can implement effective conservation programs without sacrificing affordability, thereby satisfying two goals of the Water Action Plan. However, to ensure that the goals of conservation and affordability do not conflict, the Commission must adopt specific policies and practices when implementing a new tiered conservation rate design. Joint Consumers discussed the importance of a percentage based discount for the Suburban LIRA program in their Opening Brief. Neither Suburban nor the Division of Ratepayer Advocates addressed this issue in their Opening Brief.¹

Joint Consumers also addressed the importance of outreach and data collection to ensure the effectiveness of the adopted rate design and to monitor the impact of the rate design on various segments of the utilities’ customer base. Cal Water and the Consumer Federation of California (CFC) address these issues in their opening briefs and Joint Consumers herein respond to express continued support for strong outreach and comprehensive data collection for a successful conservation rate design.

¹ Proponents of the fixed dollar discount did not explain the perceived merits of their approach in their opening briefs potentially putting the Joint Consumers at something of a disadvantage. It suggests that they may present arguments in their reply brief that should have been in an opening brief. Should this turn out to be the case, the Joint Consumers may seek an opportunity to further reply to arguments that appear in the parties’ reply briefs.

II. THE COMMISSION MUST ADOPT A COMPREHENSIVE OUTREACH PLAN FOR EACH UTILITY

None of the intervenors could reach a timely settlement with Cal Water² or Park on outreach issues. In its Opening Brief, Cal Water discusses the elements of an outreach plan that it would be willing to undertake.³ Unfortunately, the plan put forward by Cal Water is a mere shadow of the outreach settlement between several intervenors and Suburban. Even absent that benchmark, Cal Water's proposal does not go far enough.

A. Cal Water Cannot Rely on Its Yet-to-be-Approved Call Center

Cal Water proposes using bill inserts as its primary form of outreach and including an additional notice on the bill pointing to the bill insert, as well as various levels of translation into Spanish.⁴ This proposal basically mirrors the settlement with Suburban. The Cal Water notices will also include a phone number to call for additional information.⁵ Cal Water states that customers in some districts, except those with the highest percentage of Spanish-speaking customers, will be directed to contact Cal Water's Call Center "once it is implemented" for additional information.⁶ However, this Call Center has yet to be approved by the Commission and is months away from being operational.⁷ The conservation rate design will be implemented three months after a

² Disability Rights Advocates is continuing to negotiate separately with Cal Water to determine whether agreement can be reached on issues concerning accessibility. At this time, however, no agreement has been executed

³ Cal Water Opening Brief at p. 17-18. Park addresses this issue in testimony, but not in Opening Briefs. The issues and parameters for an effective outreach program discussed in response to Cal Water's Opening Brief are equally applicable to Park. The final decision for Phase 1A should apply outreach requirements for both Park and Cal Water.

⁴ There is no mention of efforts to provide accessible outreach materials.

⁵ While this customer service line, once it is implemented, will have Spanish-language capability, there is no mention in the Cal Water Opening Brief whether it will have TTY machines for telecommunications services.

⁶ Cal Water Opening Brief at p. 17.

⁷ R.T. at p. 420:15-28-421:1-27.

Commission Decision in Phase 1A, possibly early next year. By referring Spanish-speaking customers to a mythical call center, Cal Water is offering a non-option. Instead, the Commission should review the settlement agreement between intervenors and Suburban⁸ wherein Suburban agrees to accommodate Spanish-speaking customers through a voicemail system that allows these customers to leave messages in Spanish asking for additional information.⁹ While not a perfect solution, the parties found it to be acceptable as an interim measure for Suburban until its interactive voice response (IVR) system with Spanish language capability and options is operational.¹⁰

When confronted with this proposal during hearings, Cal Water witness Morse did not commit his client, instead offering to do “best efforts” to communicate with these customers.¹¹ This is not acceptable; instead, Cal Water should be ordered to make the same accommodations as contained in the Suburban settlement, to serve the needs of limited-English speaking customers in all of their districts, unless or until Cal Water has a call center capable of serving all of its limited English speaking customers.

B. Cal Water Must Be Held To Additional Specificity

Another weakness in Cal Water’s outreach proposal is that it only proposes a bill insert and vague reference to contacting community-based organizations as means of outreach. These suggestions are insufficient to ensure all of Cal Water’s customers, including vulnerable populations such as limited-English speaking, customers with disabilities, or low income customers, understand the changes in bills and rate design.

⁸ The Commission should also refer to the separate agreement between Suburban and DisabRA in which Suburban makes both immediate and longer-term commitments to accommodate customers who use TTY service.

⁹ Suburban/Intervenor settlement 3.3.6

¹⁰ Suburban/Intervenor settlement 3.3.6, 3.3.7.

¹¹ RT 421:12-28.

Once again, the Suburban settlement is instructive.¹² For example, the final decision should include affirmative requirements that Cal Water will develop and distribute materials explaining the changes to customers' bills and the changes in the way water rates will be calculated. Cal Water must be directed to distribute the material to community based organizations serving customers in Cal Water's districts, including those identified by intervenors. Cal Water should be required to translate the materials into Spanish for use in all districts and to distribute to CBOs helping Spanish-speaking customers. Cal Water should also be required to put these materials into accessible formats for customers with disabilities and distribute to CBOs that focus on the needs of the disabled. The materials along with the list of CBOs that Cal Water is working with should be posted on their website and provided to customer service representatives. Joint Consumers are not suggesting that the Commission order Cal Water to do anything onerous. Instead we are recommending basic outreach strategies required to get the word out.

As CFC notes in its Opening Brief, it is unclear whether bill inserts and bill messages alone are effective.¹³ While Joint Consumers believe bill inserts are a key piece of the outreach package, reliance on bill inserts alone is insufficient and should be supplemented with outreach in other formats or media, including newspapers. There are also other more creative forms of outreach such as using door hangers or flyers distributed to targeted areas throughout the serving territories that explain the bill changes. This is a solution agreed to by Suburban.¹⁴ Any Commission decision

¹² Suburban/Intervenor settlement 3.3.8-3.3.11

¹³ CFC Opening Brief at p. 37.

¹⁴ Suburban/Intervenor Settlement at 3.3.5.

approving the rate design settlements filed by Cal Water and Park must also include a comprehensive outreach plan.

C. CFC Attempts Both to Limit and to Expand Outreach Requirements

Joint Consumers strongly believe that an aggressive outreach campaign is necessary to ensure all consumers of the affected utilities understand the changes to their bill and the calculation of their bill amount. CFC expresses concern over the cost of outreach.¹⁵ Joint Consumers agree that utilities should not be given a blank check when implementing an outreach program. However, we disagree with CFC's suggestion that only those customers expected to experience a rate increase should be given notice of the impending changes.¹⁶ It is Joint Consumers' understanding that utility company data on customer usage is incomplete so that no one can predict with certainty which customers will experience a rate increase or a rate decrease under the new rate design. Regardless, whether a customer's bill will go up, go down, or stay the same, once the rate design changes there will be a difference in the look of the bill and the manner in which the bill total is calculated. The change in the appearance of the bill itself will generate customer confusion. To avoid customer confusion and possible upset at the combined new rate and bill layout, as much advanced notice as possible regarding these changes is important.

CFC raises a good point, however, about the substance of the notices and materials developed as a result of this outreach campaign. Utilities should not be allowed to use this outreach as an opportunity to tout rate decreases for selected customers. The notices should instead focus on the changes in the bill format and the methodology for

¹⁵ CFC Opening Brief at p. 35-36.

¹⁶ CFC Opening Brief at p. 36.

calculated rates, along with a brief discussion of the conservation goals for the rate design and the overall impact of high water usage on rates.

Despite its concerns about the utility spending too much money on outreach, CFC proposes to broaden the outreach requirements to include substantive information on conservation methods and techniques.¹⁷ Joint Consumers support the intent behind CFC's proposals, but understand that these proposals appear to be beyond the scope of Phase 1A. While it is one thing to ensure that the utility customer service representatives can adequately explain the impacts of the new rate design and the conservation goals behind the rate design, it is quite another to require the representatives to "identify greater than normal usage which might indicate a water leak, or [to] talk to the customer about where to find aerators and shower heads that will help the customer reduce water use."¹⁸ Naturally, if the utility wants to provide limited information about existing rebate programs or general conservation education on its own initiative along with the bill insert regarding the rate design, TURN would support such a decision. But that decision should be independent of the issues in this Phase of the proceeding. While these issues concerning broader water conservation education may be beyond the scope of Phase 1A, they are very important proposals that should be included in Phase 2.

III. DATA COLLECTION HAS SEVERAL PURPOSES REQUIRING DIFFERENT TYPES OF DATA

In addition to outreach efforts, Joint Consumers have emphasized the importance of data collection to analyze the effectiveness of the conservation rate design and the impact of the new rate design on affordability for low income customers. Several

¹⁷ CFC Opening Brief at 37, 38.

¹⁸ CFC Opening Brief at p.38.

intervenors reached a settlement with both Park and Suburban on data collection issues. Cal Water and the intervenors could not reach a timely settlement. In its Opening Brief, Cal Water states that it will perform, “extensive data collection and monitoring” upon the implementation of the rate design in order to track “customer response.”¹⁹ Joint Consumers support Cal Water’s proposal to track these data in their effort to analyze the effectiveness of the rate design. However, as with Cal Water’s outreach proposal, their data collection proposal does not go far enough.²⁰

As discussed in its Opening Brief, Joint Consumers strongly believe additional data are necessary to properly monitor the impact of the new rate design on low income consumers.²¹ Data that tracks delinquency and disconnection trends are vital to determine if the new rate design is having adverse impacts on affordability for any residential utility customer, but especially low income customers already finding it difficult to pay utility bills. Unlike usage data that will at best give analysts only a clue as to possible causes for changes in customer behavior, data showing trends in delinquency and disconnects, coinciding with the implementation of the new rate design, can give direct evidence of problems that need to be addressed.²²

Cal Water refuses to consider this additional data collection and criticizes TURN and NCLC for not demonstrating the necessity of the data. Joint Consumers submit that Cal Water has it exactly backwards. The data are necessary to alert the Commission to problems with the rate design. It makes no sense to wait for a problem to justify data

¹⁹ Cal Water Opening Brief at p.18.

²⁰ In its Opening Brief, CFC also suggests that customer usage data are necessary to see if the new rate design is having its intended affect. (CFC at p.39.) CFC is silent on Joint Consumers’ proposal to collect payment history data. Silence should not be read to suggest that those are the *only* data elements to be collected.

²¹ Joint Consumer Opening Brief at pp. 20-21.

²² As discussed in its Opening Brief, DRA’s witness testified that it is very difficult to attribute any single cause for a change in consumption patterns making usage data less valuable. RT Olea at p.17:10-25.

collection, as Cal Water seems to advocate.²³ Despite unsubstantiated assurances from Cal Water witness Morse that low income consumers will not be adversely affected by the rate design, it is clear that none of the utilities have reliable data on customer usage, customer classes and household size to reliably predict the impact of the new rate design. Instead of waiting to see if there will be a problem and then collecting data, as Cal Water suggests, Joint Consumers are urging the Commission to better protect consumers by being proactive and requiring data along with the implementation of the rate design.²⁴

To support its argument that payment history data collection is unnecessary, Cal Water cites to the hearing transcript of its own witness. There, Mr. Morse suggests that even households of eight or more, using 20 Ccf of water per month, will experience only a minimal impact from a tiered rate structure. It is very unclear how Cal Water supports its claims. It is important to keep in mind that while there may be general, nationwide statistics for individual indoor water use,²⁵ the record contains no evidence that Cal Water has data for its own customers to confirm that number is accurate. Nor has it demonstrated that merely because there are double the occupants in the household (8) that the water consumption will only double from the nationwide statistics that suggest a family of four uses 10 Ccf of water per month.²⁶

In fact, the limited data in this proceeding suggest something different. First, it is worth noting that Suburban claims a total company annual average of 19.61 Ccf per month for residential meter sizes 5/8" and 3/4" almost double the 10Ccf for a family of

²³ RT at p. 426:20-26; RT at p. 427:10-20; Reply of California Water Service Company to Comments on the Settlement Between It and the Division of Ratepayer Advocates and the Utility Reform Network, July 6, 2007 at p. 5.

²⁴ Exh. 16, Testimony of John Howat at pp. 4-5.

²⁵ Cal Water witness Morse makes reference to a paper that states a family of four will use 10 Ccf of water per month (RT at p. 349:1-6); DRA cites to an EPA statistic in its testimony that suggests a family of four would use 11.24 Ccf per month. Exh 6, DRA Phase 1A Report, at p.2-4.

²⁶ RT at p. 355:3-16

four cited in Cal Water's brief.²⁷ Second, the attachments to the Amended Settlement between Cal Water, DRA and TURN indicate that many of Cal Water's districts see average annual consumption per household much closer to, and in some cases more than, 20 Ccf/month.²⁸ It is important to note that these figures are for average overall consumption and do not take into account household size which is the primary driver for indoor water use. Households with a large number of people will consume more water, and therefore have a higher bill than the average of 20 Ccf.²⁹ While Cal Water can say with some confidence that households consuming 10 Ccf will see a reduction in their bills with the proposed tier structure, the same cannot be stated with certainty for a household consuming 20 Ccf or more. Even the slightest increase could cause problems for families already struggling to meet their monthly bills.

This is not an idle concern as Cal Water would suggest. California-specific data from the U.S. Census Bureau, using the poverty guidelines of the U.S. Department of Health and Human Services, show that 42% of households statewide with 7 people are at or below 150% of the poverty guidelines, while 36.8% of households with 8 people are also at or below 150% of poverty. A much larger percentage of families with 7 or 8 members are in the category of 150% below poverty than those families with fewer

²⁷ Suburban/Division of Ratepayer Advocates Settlement, April 24, 2007 at Attachment 2, page 2. TURN notes that Park has usage statistics closer to the national averages, but there is little data in the record that explains the variation in usage between Park and Suburban.

²⁸ Amended Settlement Cal Water/DRA/TURN, filed 6/15/2007 (corrected 6/21/2007), Attachment 1, WS2BG, Bear Gulch shows annual average consumption at 25 Ccf; Attachment 1, WS3GB, Bakersfield shows annual average consumption at 26 Ccf; Attachment 2 WS3 ELA even shows annual average consumption for East L.A at 16 Ccf

²⁹ Joint Consumers Opening Brief at p. 10, citing R.T Kelly, at p.73:5-20; R.T. Jackson, at p. 208:1-2.

members.³⁰ Affordability is a key element of the rate design for these vulnerable customer groups.

While data is necessary to judge whether the rate design is having its intended conservation effect, Joint Consumers also want additional data that should show if there are unintended consequences as well. The impact on consumption and rates cannot be fully predicted, despite Cal Water's insistence that low income customers will not be affected. As Cal Water admitted on the stand, the Commission must have data on payment history before it can declare low income consumers are no worse off as a result of the rate design.

IV. CONCLUSION

For the reasons stated in the Joint Consumer's Opening Brief and above, the Commission must ensure that Park, Suburban and Cal Water are all held to a high standard for outreach to their customers by implementing a comprehensive outreach plan for Cal Water and Park and by approving the settlement with Suburban. The

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³⁰ Calculated using U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 2006; U.S. Department of Health and Human Services 2007 Poverty Guidelines, Federal Register, Vol. 72, No. 15, January 24, 2007, pp. 3147–3148. A cross-tabulation of income and family size using these 2006 Census data for California estimates that there are approximately 138,000 families of 7 at or below 150% of poverty (the CARE eligibility is set at 200% of poverty) and 107,000 families of 8 or more at or below 150% of poverty. Results of the 2000 Census indicate that there were over 75,000 owner-occupied housing units with seven or more occupants in Los Angeles County alone. There were over 227,000 such housing units statewide. (U.S. Census Bureau, Census 2000, Summary File 3, Table H17.)

Commission must also not lose sight of the importance of affordability issues when looking at conservation rate designs. By requiring specific data collection elements, the Commission will enable interested parties to track the impact of the new rate design on low income and other vulnerable consumers.

Dated: September 17, 2007

Respectfully submitted,

/S/

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CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On September 17, 2007 I served the attached:

**REPLY BRIEF OF THE UTILITY REFORM NETWORK, NATIONAL CONSUMER
LAW CENTER, LATINO ISSUES FORUM AND DISABILITY RIGHTS ADVOCATES**

on all eligible parties on the attached lists to **I.07-01-022, A.06-09-006, A.06-10-026, A.06-11-009, A06-11-010 and A.07-03-019**, by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this September 17, 2007, at San Francisco, California.

_____/S/_____

Larry Wong

Service List for I.07-01-022, A.06-09-006, A.06-10-026, A.06-11-009, A.06-11-010 and A.07-03-019

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